Office of the Merit Commissioner

Service Plan
Fiscal Years
2011/12 – 2013/14

Presented to
The Select Standing Committee on Finance and Government Services
Legislative Assembly of British Columbia

November 23, 2010

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Message from the Merit Commissioner

I am pleased to present the 2011/12 – 2013/14 Service Plan for the Office of the Merit Commissioner, my first since being appointed in February 2010. In doing so, I would like to acknowledge the firm foundation for the work of the Office established by my predecessor and the first independent Merit Commissioner, Joy Illington.

My appointment not only followed a period of absence of a Merit Commissioner but also came at a time of fundamental change and unique challenge. It was necessary to bring to a conclusion work underway on the 2009 merit performance audit and to undertake an audit of short-term temporary appointments. Equally challenging, however, was the need to establish a plan for effective audit of new hiring practices within the BC Public Service; to address the difference between some employees' perceptions of merit-based hiring and the findings of our audits; and to concentrate on understanding possible reasons for diminishing numbers of requests for staffing reviews by the Merit Commissioner.

The continued commitment and dedication of the small staff of the Office ensured continuity and progress during this period of transition, resulting in significant achievements. The 2009 merit performance audit of 302 appointments was completed, a special audit of short-term temporary appointments was conducted, and results were presented in the 2009/2010 Annual Report. Our website has been revamped to ensure ease and accessibility of information to employees and the public, and a new Audit Advisory Committee has been established. Ongoing dialogue with the BC Public Service Agency and BC Stats has enabled the development of an audit plan which will encompass changes to hiring practices and at the same time allow further insight into appointments in specific occupational groups.

Our strategies and work plan for 2011/12 – 2013/14 are designed to result in new base-line data for merit-based hiring; provide clearer insight into appointments in certain occupational groups where merit-based hiring may be at increased risk; and ensure information is available on appointment types which, if used inappropriately, could result in a circumvention of the merit principle.

I look forward to undertaking this work and facing the challenges ahead as I fulfill my mandate as the Merit Commissioner for British Columbia.

Vision

A professional and non-partisan public service that is hired and promoted on the principle of merit.

Mission

To serve the people of British Columbia through their elected representatives of the Legislative Assembly by monitoring public service appointments to ensure the application of the merit principle in hiring and promotions in the BC Public Service.

Responsibilities

All appointments to and within the BC Public Service must be made on the principle of merit. Merit means that appointments are made on the basis of an assessment of competence and ability to do the job, and are not influenced by patronage.

The Merit Commissioner provides independent oversight of and insight into appointments to and from within the BC Public Service. This oversight role applies to appointments made under section 8 of the *Public Service Act*.

The Merit Commissioner has three central responsibilities under the *Act*:

- to monitor the application of merit by conducting random audits of appointments and reporting the audit results to the deputy ministers or heads of the organizations in which the appointments were made;
- to provide a review of the application of merit as the final step in a staffing review process for positions in the bargaining unit; and
- to report annually to the Legislative Assembly on the application of the merit principle in BC Public Service appointments.

The Merit Commissioner may:

- undertake special reports or merit performance reviews of system-wide issues related to the application of the merit principle; and
- undertake surveys and research to assess the attitude of the public service related to merit-based hiring and recruitment.

The Office provides credible and relevant information about staffing on which the employer may act to produce positive changes. These outputs all support the long-term goal of building public confidence and a strong consensus that the BC Public Service is qualified, and hired fairly according to the principle of merit.

Context

BC Public Service Workforce

As of October 30, 2010 there were 33,446 employees in the BC Public Service (a decrease of over 3,000 since reporting at this time last year). These employees work in 22 ministries and central agencies, 13 agencies boards and commissions, and 7 independent offices.

Employees are appointed under the *Public Service Act* on a regular or auxiliary basis. They may be unionized, managers or other non-unionized employees. Distribution of the population by these categories is shown below at Charts 1 and 2.

Chart 1 Employees Appointed Under the *Public Service Act* – By Status
(As of October 30, 2010)

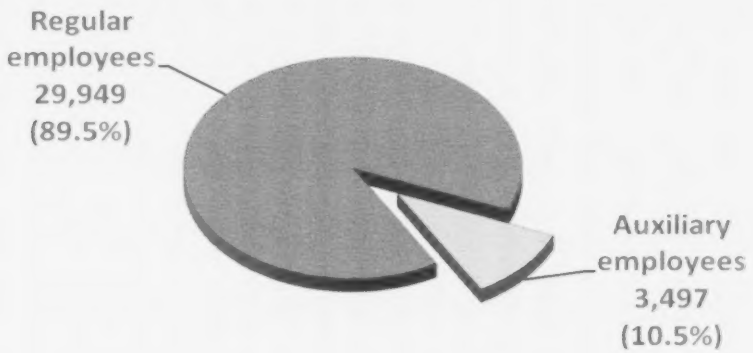
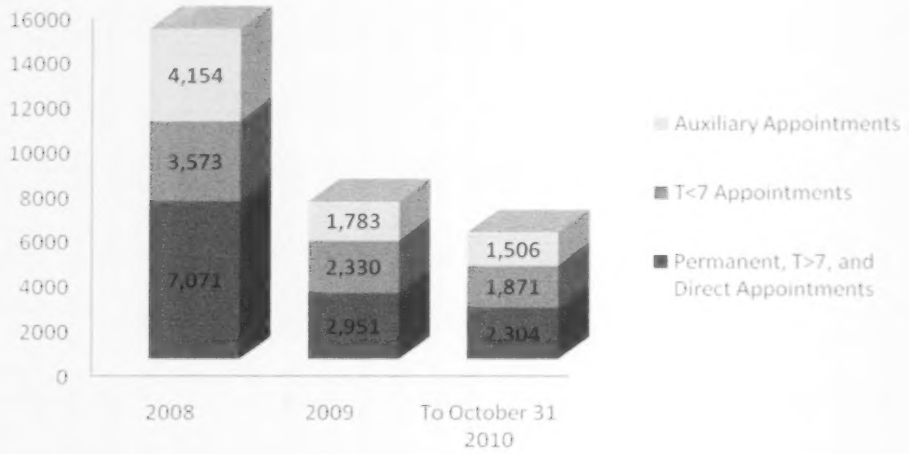


Chart 2 Employees Appointed Under the *Public Service Act* – By Type
(As of October 30, 2010)

Appointment Activity

The Office of the Merit Commissioner audits appointments to and within the public service that are made under Section 8 of the *Act*. Chart 3 shows total numbers of these appointments, by appointment type, for the last three years. Despite a reduction in the overall size of the public service, the number of appointments to date in 2010 is approaching the total number of appointments in 2009.

Chart 3 Year to Year Comparison of *Public Service Act* Appointments* Subject to Oversight by the Merit Commissioner



Our Work

We carry out our responsibilities in the following ways.

- Annual merit performance audit of new appointments
- Special audits of categories of appointments
- Special studies related to merit-based appointments
- Research and analysis
- Staffing Reviews
- Outreach
- Merit Commissioner recommendations and follow-up
- Annual Report

Performance Measures and Targets

Annual Audits

The goal in our annual merit performance audits is to have a sample size that is sufficiently robust to allow the audit results to be confidently generalized to the population of all appointments made. A target is established of a 95% confidence interval (that is, that there is a less than a 5% chance that results lie outside the interval).

BC Stats has developed a sampling solution to ensure that the cases selected for audit are both random and representative. Based on sample size, the representativeness of the sample selected, and other considerations; BC Stats states that the target was achieved, that a high level of confidence can be placed in the accuracy of the 2009 merit findings, and that findings can be extrapolated to the entire population.

Sampling to achieve a 95% confidence level will continue for all audits conducted from 2011/12 - 2013/14. (Any reduction to the sample size will have a direct impact on the confidence level of the findings.)

Detailed audit results are reported to heads of organizations and the Head, BC Public Service Agency. Summary results are contained in the Merit Commissioner's Annual Report to the Legislative Assembly which is publicly available on the Office's website.

Special Audits and Studies

Special audits of occupational groups will be undertaken to determine if issues related to the application of the merit-principle are more prevalent in appointments to specific groups than are present in the general target population. With BC Stats assistance, there will be an increase in the rate of sampling of appointments in certain occupational groups to provide for a 90% confidence interval (due to the small total population size in certain occupational groups sampling to achieve a higher confidence interval would be problematic).

Results of special studies related to certain appointment types (such as auxiliary appointments or temporary appointments) will be reported within 30 days of the conclusion of the study to the Head, BC Public Service Agency so that follow-up action can be taken as required and appropriate. Results of two recent studies were provided to the Agency within this targeted timeframe.

Staffing Reviews

It is important to the employer, and to the employee who may request the Merit Commissioner undertake a review of an appointment decision, that a timely review takes place and a timely decision rendered.

The Office of the Merit Commissioner will acknowledge receipt of an employee's request for review within one working day. Should the request for review not meet the required mandatory criteria, the employee will be advised of the ineligibility of their request within 10 days. Eligible requests will be investigated thoroughly and review decisions provided to the employee and employer within 30 days of receipt of material required for the review. The Office will target to achieve these performance measures 100% of the time.

These performance targets were met 100% of the time in 2009/10 and continue to be met in 2010/11.

Ongoing

Staffing practices are one of four key drivers of employee engagement. By monitoring organizational performance against certain indicators that staffing practices are fair and merit-based, the Office maintains a general sense of the "state-of-health" of merit-based hiring in the BC Public Service. The framework shown at Chart 4 provides an overview of these key indicators and associated performance measures. Improved performance vis-à-vis these indicators will lead to improved employee engagement.

Chart 4

Indicators of Merit-based Hiring Performance

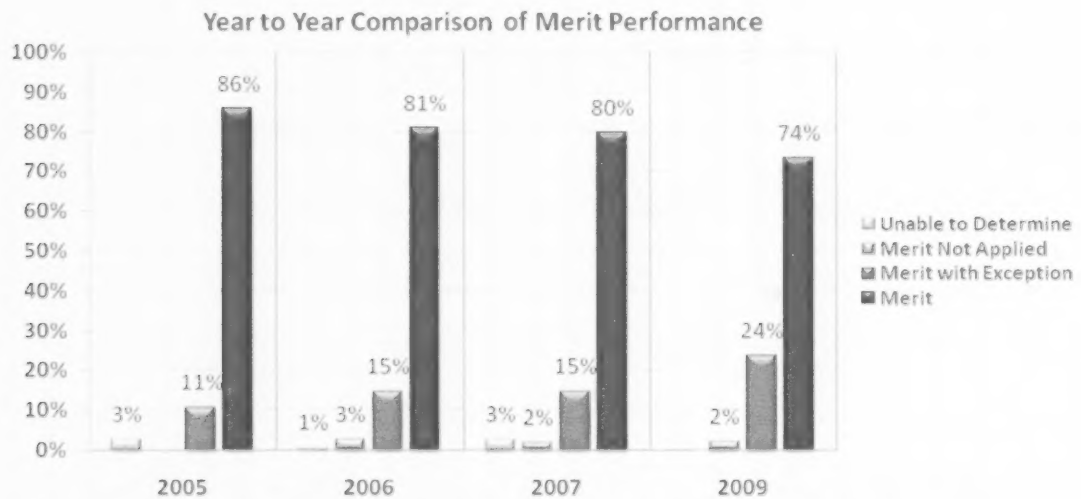
WORKPLACE CULTURE	
INDICATOR	**PERFORMANCE MEASURE**
Deputy Ministers are seen and believed to be committed to merit-based hiring	Statements and actions match the Corporate Human Resource Plan Corrective actions are taken following staffing review findings
Managers and supervisors upholding merit in hiring and promotions	Audits and staffing reviews
Employee opinions of merit-based and fair staffing practices	Work Environment Survey, focus groups, and surveys
MERIT-BASED HIRING SYSTEM	
INDICATOR	**PERFORMANCE MEASURE**
Hiring policy, legislation and relevant collective agreement provisions are known and applied consistently	Audits, staffing reviews, and surveys
Hiring practice is transparent, fair, and decisions are reasonable and job related	Audits and staffing reviews
Continuous improvement	Audit follow-up and tracking
Merit Commissioner recommendations are responded to and implemented	Monitoring
Code of conduct and ethics training emphasize the principle of merit in hiring	Government training and course content
EMPLOYEE RESPONSIBILITY	
INDICATOR	**PERFORMANCE MEASURE**
Employees are aware of and use the staffing review process	Monitoring and measuring use
Managers are recognized for merit-based hiring	Audits and staffing reviews

Progress on Key Commitments

Despite the absence of a Merit Commissioner for a number of months, the Office maintained operations in a manner that allowed completion of the 2009 Annual Audit in a reasonable time frame. Heads of organizations received detailed reports periodically throughout the year as well as a summary report at the conclusion of the audit. The results of the audit, reported in the Annual Report, provided the BC Public Service Agency with recommendations and valuable insight into where weaknesses in the staffing system needed to be addressed.

Chart 5 provides a year to year comparison of merit performance results over the past four annual audits. While findings of "merit with exception" have increased in the last year, incidences where merit was not found to apply have remained at 2%.

Chart 5



Note: An annual audit was not conducted in 2008 due to the transition to a new audit approach.

The special audit of short-term temporary appointments was concluded. In conducting the audit it became clear that there are potentially a significant number of employees who have been temporarily promoted without the benefit of a merit-based process, and whose assignments have become long-term. These employees become, as a result, in a position of advantage should they be candidates for permanent appointment. Following the recommendations of the Merit Commissioner contained in the Annual Report, the BC Public Service Agency will be examining policies related to temporary appointments.

In 2009/10 there was a fundamental and significant change in the staffing system in the BC Public Service. While managers remain accountable for staffing decisions, the BC Public Service Agency has assumed responsibility for the conduct of merit-based recruitment and selection processes. The practice of collective or "pool" staffing has been introduced and in the fall of 2010 all systems were automated. Understanding these changes and the impact on how the Office performs its audit function has been challenging.

Challenges Ahead

The BC Public Service Agency is confident that changes to the staffing system that have been introduced will greatly improve performance vis-a-vis the issues identified through the Office's annual audits. To allow these system changes to take effect and to ensure results of our annual merit performance audit are meaningful and useful for learning purposes, the 2010 Annual Audit will be a partial year audit. Although some adjustments to the audit tool have been made, this "transition year" audit will allow the Office to refine the process to ensure future audits address areas of risk.

The results of our 2009/10 special audit of temporary appointments strongly indicate the need to carry out future audits in this area. The potential for circumventing the merit principle through extended use of short-term temporary appointments is significant. Another special audit of this appointment type is scheduled for 2011/12.

Auxiliary appointments remain the only appointment type subject to oversight by the Merit Commissioner which has not yet been subject to audit. A special statistical study is underway to determine if, as was the case with temporary appointments, there may be cause for concern with respect to the inappropriate use of the auxiliary appointment process. The results of this study will inform our audit plan for future years.

Appointments to occupational groups consistently responding negatively to staffing questions on the Work Environment Survey (WES) will be examined in more detail in upcoming annual audits through increased sampling of the relevant appointment types.

The Office continues to receive informal complaints and inquiries. Updated and easy-to-access information has been placed on the Office's revamped website making it easier for employees to understand the staffing review process. Our monitoring indicates that this is the most frequented section of the website. The BC Public Agency has been requested to ensure that employees seeking information through their website are now directly linked to the appropriate section of the Merit Commissioner's website. Requests for staffing reviews, while fewer than in previous years, are being received in a higher volume than in 2009/10. The Office will continue to gather information and monitor the situation to assess the need for an employee survey.

Priorities for Fiscal 2011/12

Annual Audit

Based on experience with the 2010 Annual Audit, adjustments to the merit performance audit tool and process will be made and a full and robust audit of appointments in 2011 will be undertaken. The 2011 audit will sample appointments made throughout the province, by large and small organization, by bargaining unit and excluded management positions, and by occupational groups considered at risk or of concern. (The latter criteria will be adjusted to address factors such as the use of collective staffing processes, and occupational groups expressing dissatisfaction through the Work Environment Survey.) Increasing sampling of appointments within a certain occupational group while maintaining the overall sample size for the general audit will likely make the 2011 audit significantly larger.

Following the audit of appointments made in 2010, the Office will start to request a report from organization heads as to what action was taken to address issues identified when an audit results in a finding that merit was not applied in an appointment process. This information will allow the Office to monitor the extent to which opportunities for learning are being introduced and to gauge the degree to which deputy ministers are seen to be committed to merit-based hiring.

Special Audits

A special audit of temporary appointments originally intended to be under seven months in duration but which have continued significantly beyond that timeframe will be undertaken. This audit will mirror, to a large extent, the audit conducted in 2009/10 and will focus on determining to what extent issues identified in the first audit still exist or may have been addressed.

Following an analysis of data related to auxiliary appointments, an audit will be conducted which focuses on those appointments that are of such an extended duration that they could be viewed as permanent appointments.

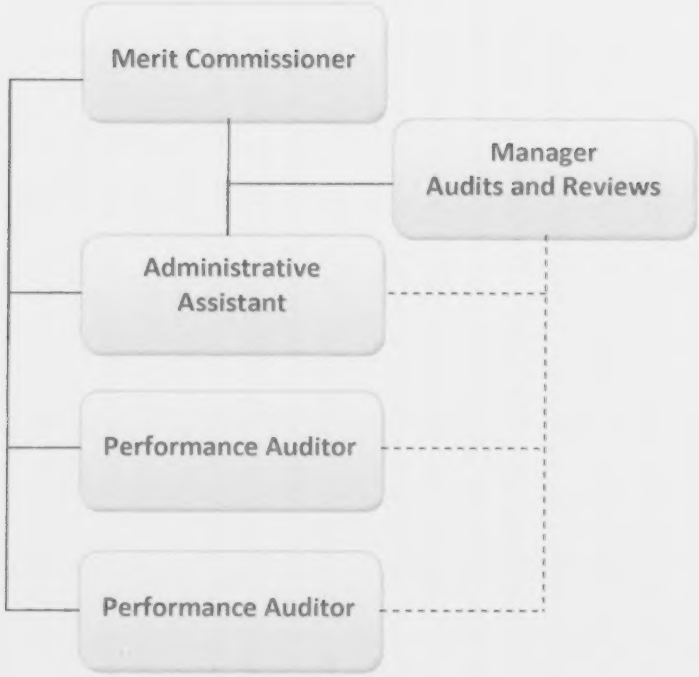
Special Studies

Information related to merit-based hiring collected by the Office of the Merit Commissioner over the last five years, will be analyzed to provide a long-term picture of merit-based hiring in selected ministries. These "histories" will be shared with deputy ministers to provide them with some added insight into the employment culture of their organization and for learning purposes. It is anticipated that best practice organizations will also be identified.

Staffing Reviews

With the assistance of the BC Public Service Agency, information will be gathered on the number of staffing inquiries deputy ministers are receiving, the reasons for the requests, and their findings. This information will provide the Merit Commissioner with further insight into employees' use of the staffing review process.

Appendix 1:
Office Structure



Appendix 2:
Organizations Subject to Oversight by the Merit Commissioner

(Organizations with staff appointed under section 8 of the *Public Service Act* [RSBC 1996])

Ministries

Aboriginal Relations and Reconciliation
Agriculture
Attorney General
Children and Family Development
Citizens' Services
Community, Sport and Cultural Development
Education
Energy
Environment
Finance
Forests , Mines and Lands
Health Services
Labour
Natural Resource Operations
Public Safety and Solicitor General
Regional Economic and Skills Development
Science and Universities
Social Development
Tourism, Trade and Investment
Transportation and Infrastructure

Central Agencies

BC Public Service Agency
Office of the Premier

Independent Offices

Auditor General
Elections BC
Information and Privacy Commissioner
Merit Commissioner
Ombudsperson
Police Complaint Commissioner
Representative for Children and Youth

Agencies, Boards and Commissions

BC Mental Health and Addiction Services
    Forensic Psychiatric Services Commission
    Riverview Hospital
BC Pension Corporation
Broadmead Care Society
Environmental Appeal Board
Financial Institutions Commission
Forest Appeals Commission
Forest Practices Board
Islands Trust
Oak Bay Lodge Continuing Care Society
Provincial Capital Commission
Public Sector Employer Council
Royal BC Museum